IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1710 OF 2004
(For condonation of delay)
IN
CRIMINAL APPEAL NO.516 OF 2004

The State of Maharashtra Applicant

vs.

Bhagwan Namdeo Patil & ors. Respondents

Smt.V.R.Bhonsale, APP for the State.

CORAM : R. M. LODHA &
R. S. MOHITE,JJ.

DATED : 1st February 2005

P.C.

Heard Smt.V.R.Bhonsale, the learned APP and perused the criminal application seeking condonation of delay.

2. The State has preferred the appeal under Section 377(1) of the Code of Criminal Procedure, 1973 against the judgment dated 17.07.2003 passed in Sessions Case No.63/2001 by the Additional Sessions Judge, Alibag aggrieved by the inadequacy of the sentence. The appeal was lodged on 12.04.2004. There is delay of 187 days in filing the Criminal Appeal as per office report. It is stated that the application for certified copy of the judgment dated 17.07.2003 was made on 12.11.2003. The certified copy was delivered on 08.12.2003. The concerned Public Prosecutor forwarded the papers to the

Law and Judiciary Department on 18.12.2003 advising that the matter was fit for filing an appeal. The Law and Judiciary Department scrutinised the papers and vide resolution dated 03.01.2004 asked the Public Prosecutor, High Court (A.S.), Mumbai to prefer an appeal against the inadequate sentence. The said resolution was received by the office of the Public Prosecutor, High Court, Appellate Side, Mumbai on 05.01.2004 and the appeal came to be filed on 12.04.2004.

3. As a matter of fact, the application for certified copy itself was made after the limitation for filing the appeal had expired. There is no explanation worth the name as to why the application for certified copy was made more than 3.1/2 months after the judgment was delivered by the learned Additional Sessions Judge. Moreover, we find that the application lacks the details as to why the concerned Additional Public Prosecutor who conducted the trial could not advise the Law and Judiciary Department for filing an appeal before 18.12.2003. Even if we take a liberal view as we do in the matters for condonation of delay in matters relating to State as the State is an impersonal body and the matter needs to be processed at various stages, we find that the present matter does not make out sufficient cause for delay. The office of the Public Prosecutor, High Court, Appellate Side, Mumbai received the papers

on 05.01.2004 but there is no justifiable explanation as to why appeal could not be filed within the reasonable time thereafter. The stereotype explanation that due to heavy workload, pressure of work and non-availability of stenographers, the appeal could not be filed is hardly an explanation meriting acceptance. We, thus, find that gross delay of more than six months remains unexplained.

4. No case for condonation of delay is made out.

5. Criminal application is, accordingly, rejected.

(R.M. LODHA,J.)

(R.S. MOHITE,J.)